THE "ACCIDENT" POLICY.

"ACCIDENT" policies do not cover accidental death or injury. They do cover death or injury resulting from bodily injury effected solely through accidental means. These policies usually contain three classes of provisions respecting the manner of injury or death for which the insurer will be liable: First, a general liability clause covering death or injury resulting from bodily injury effected solely from external, violent and accidental means; then a clause exempting the insurer from liability on account of death or injury resulting from certain happenings, for which injury or death, in the absence of the special clause, the insurer *would* be liable under the general liability clause; and next a clause expressly rendering the insurer liable on account of death or injury resulting from certain other happenings, for which death or injury, in the absence of this special clause, the insurer would *not* be liable under the general liability clause.

The first of these two special clauses has come to be inserted in the modern "accident" policy to relieve the insurer from liability in cases of death or injury occurring under circumstances where the insured has subjected himself to great hazard, experience having demonstrated that the claims on account of such deaths or injuries will be so many as to make the premium charge for the insurance so high as to prohibit its sale. The second, because the desire of the insured to have insurance against death or injury resulting from certain special happenings not covered by the general liability clause in a policy has caused the insurance company to graft on to the policy a special liability clause covering death or injury arising out of such special happenings.

So we may find a special clause exempting the insurer from death or injury by accidental means when the insured is in the Army or Navy, in an airplane or a submarine, or engaged in violation of law. And another clause especially imposing lia-

bility for sunstroke, freezing and hydrophobia, effected by accidental means.

In order to judge of the liability of the insurer for death or injury resulting from a particular happening, one must always examine the policy for these special provisions. But, in the absence of an applicable special provision, the form of accident policies has become substantially standard, so that it is generally practicable by the application of a particular test to determine on any given state of facts whether liability will result, without securing a case "on all fours" as to the facts and decided by the court of last resort in the particular State.

The standard phraseology renders the insurer liable in the event of death or injury resulting "from bodily injury effected solely through external, violent and accidental means". It will be observed that this language is not identical with a provision which renders the insurer liable in the event of death or injury resulting "from external, violent and accidental bodily injury". It may be pretty safely assumed that the means of any physical disorder or injury will be held "violent", the courts saying that the fact of injury necessarily implies violence; and every agency creating the same will be "external", for the courts will always relate an internal happening to any external one, plausibly suggested as the true "means". Thus in construing this provision it is most important to decide whether the given injury was effected solely by accidental means.

If a man runs rapidly along the street and, without falling or making a misstep, suffers a rupture, he has undoubtedly sustained an accidental bodily injury. But he has in no sense sustained a bodily injury effected solely through accidental means. For the means was deliberate and intentional, to-wit, the strain and shock incident to rapid running.

If this same man makes a misstep, or trips over an unobserved obstacle or inequality and falls, plainly the means of the rupture was not the strain and shock incident to the intentional rapid running, but on the contrary was the unintended strain and shock incident to the accidental fall.

So, if a man knowing the deadly nature of strychnine, nevertheless takes a quantity which causes his death, intending to

take the particular dose as a stimulant, but not to commit suicide, he has undoubtedly sustained accidental bodily injury. But the means of death is in no sense accidental, for he intentionally set the same in motion, and the only element not intended is the result as distinguished from the means. Just as plainly, however, if he took a fatal dose of strychnine, thinking it was aspirin, the means of death itself would be accidental, for it was not intentionally set in motion.

One might reduce the facts in every case presented to a determination in which of the two classes of cases mentioned in the illustrations above given any case should be placed.

But like every other question which has frequently been in court, sometimes the true principle has been overlooked by the courts until it is possible now to present a large array of cases from the digests and encyclopedias, the decisions in which are at variance with the principle. Occasionally the opinion in a case indicates that the difference between death by accidental means and simple accidental death has not been contended for by the attorney who should have relied upon the same. Splendid examples of cases where the courts failed to understand the principle involved are contained in the Horsfall Case in Washington, the Hodgson Case in New York, and the Dezell Case in Missouri,[1] in all of which the courts reach their decisions without ever having touched upon the question of the true meaning of the term "accidental means"; and, unfortunately, in the leading case on this subject in the country, it does not appear from the opinion of the court (except by inference) that the turning-point of the case was which of the two forms of phraseology above discussed was used in the policy.

This Barry Case, by the way, while decided upon correct principles, has been relied upon equally by courts adhering to the correct principle and courts ignoring it. It was a case in which the deceased jumped from a platform at the same time that two companions jumped from the same place, the companions alighting safely, while the deceased received an internal injury which produced duodenitis and death. In this case, the court said:

[1] For all citations see list of cases appended.

"It is further urged that there was no evidence to support the verdict because no accident was shown. We do not concur in this view. The two companions of the deceased jumped from the same platform, at the same time and place, and alighted safely. It must be presumed not only that the deceased intended to alight safely, but thought that he would. The jury were, on all the evidence, at liberty to say that it was an accident that he did not. The court properly instructed them that the jumping off the platform was the means by which the injury, if any was sustained, was caused; that the question was, whether there was anything accidental, unforeseen, involuntary, unexpected, in the act of jumping, from the time the deceased left the platform until he alighted on the ground; that the term 'accidental' was used in the policy in its ordinary, popular sense, as meaning 'happening by chance: unexpectedly taking place; not according to the usual course of things; or not as expected;' that, if a result is such as follows from ordinary means, voluntarily employed, in a not unusual or unexpected way, it cannot be called a result effected by accidental means; but that if, in the act which precedes the injury, something unforeseen, unexpected, unusual occurs which produces the injury, then the injury has resulted through accidental means. The jury were further told, no exception being taken, that, in considering the case, they ought not to adopt theories without proof, or substitute bare possibility for positive evidence of facts testified to by credible witnesses; that where the weight of credible testimony proved the existence of a fact, it should be accepted as a fact in the case; but that where, if at all, proof was wanting, and deficiency remained throughout the case, the allegation of fact should not be deemed established."

The crux of this language is contained in that clause which reads as follows, "That the question was whether there was anything accidental, unforeseen, involuntary, unexpected, in the act of jumping, from the time the deceased left the platform until he alighted on the ground", but it is not consistent with the clause, "but that if, in the act which precedes the injury, something unforeseen, unexpected, unusual occurs which produces the injury, then the injury has resulted through accidental means", for here "unusual" is substituted for "involuntary".

The Supreme Court of the United States must have considered the distinction between an accidental injury and an injury by accidental means, and refused to set aside this verdict of the jury because there was sufficient evidence to justify a belief that something happened between the time when the deceased left the platform and the time when he alighted that he had not intended to happen—either a loss of balance, unconsciousness, paralysis or other "accidental, unforeseen, involuntary, unexpected" intervening means, independent of the intentional strain and shock incident to alighting on the ground after the jump from the platform.

This decision has been variously interpreted, and in at least three States has been made the basis of decisions not in accord with the interpretation ordinarily placed upon it. For instance, in the Lewis Case and the Carnes Case, the Iowa Supreme Court closely follows the true principle, but in the Binder Case, subsequent to its decision of the Carnes Case, we find that court tacking on to the decision in the Barry Case inferences as to the ground of the opinion which are not surely justified by the language of the opinion. And in the Dezell Case and the Bryant Case, the Missouri and Texas courts cite the Barry Case in support of a principle at variance with the true rule.

In the Spitz Case, it appeared that after the deceased had a boil which was healing, in order to relieve the itching he rubbed or scratched the offending place with the result that he broke the scab. It became infected and he died of erysipelas. Judges Buffington, McPherson and Wooley sat in the case, which was in the Circuit Court of Appeals for the third circuit. In writing the opinion of the court, Judge McPherson said:

> "They do not mean simply that death shall be accidental; that is, unintended, or unexpected, or unforeseen; but that the means or the cause of death shall be accidental. It is this to which the policy directs particular attention, and if the means be not accidental the death is not insured against. The words 'accident' and 'accidental' have been many times considered, and the numerous cases on this subject need not be reviewed. Their general meaning is not in doubt, and the Standard Dictionary's definition of 'accidental' will serve as well as another. * * *

"In the recent case of Insurance Co. *v.* Patterson (1914), 213 Fed. 597, 130 C. C. A. 177, this court had occasion to say:

" 'We agree that, when a man is injured while doing merely what he intends to do, he is not injured by an accident, unless the course of his action has been interrupted or deflected by some unforeseen and unintended happening. To illustrate from the facts before us: Since the deceased was attempting to start the engine of his car by turning the crank, whatever injury he might sustain from the ordinary strain of that operation would probably be regarded as the result of what he intended to do, and therefore would not be accounted accidental. But we can hardly suppose that he intended to slip and fall in the course of the operation, and therefore if he did slip and fall, and sustained injury as the direct result thereof, the happening would be unforeseen and unintended, and the injury would be accidental.' * * *

"As we read the testimony, nothing appears to show that the injury was inflicted by accidental means. The deceased rubbed or scratched his neck in the ordinary way; there is no evidence that he was disturbed or interfered with during the operation, and an ordinary and not unusual result followed; that is, he broke the scab. His hands were not clean; but he knew that fact, and must be held to the risk of such harm as might follow therefrom. In a word, he seems to have done just what he intended to do, namely, rub or scratch his neck to relieve the itching, and in our opinion breaking the scab during the process was a probable result, one reasonably to be expected. We think the defendant was entitled to binding instructions."

It is interesting to note that upon a motion for a new argument of this case, the Barry Case was considered and the foregoing opinion was reaffirmed without change, the last-quoted clause being stated again by the court.

The Federal Courts are in accord in support of the foregoing.

In New York, we find the Appel Case and the Niskern Case decided in accordance with the true principle, and the Hodgson case, referred to above and decided by a trial judge, in conflict therewith. On the appeal of the Hodgson Case, this question

was not put in issue or discussed by the appellate court, so far as appears from the opinion.

The Smith Case, decided by the Supreme Court of Massachusetts, is a particularly well considered case. Here the court said:

> "But there was nothing accidental in the inhalation of this douche. The deceased did exactly what he intended to do. This particular act of inhalation, though harder or more violent than usual, was not so far as appears, harder or more violent than he intended it to be. There was no shock or surprise during the inhalation which made him draw a deeper breath than he intended to draw, nothing strange or unusual about the circumstances. The external act was exactly what he designed it to be, though it produced some internal consequences which he had not foreseen. Accordingly there was no bodily injury effected through a means which was both external and accidental. But it is only for a death resulting from injury effected through such means that the defendant is made responsible by the policy. It is not sufficient that the death or the illness that caused the death may have been an accidental result of the external cause, but that cause itself must have been, not only external and violent, but also accidental."

The court also distinguished a number of cases cited by the plaintiff, as follows:

> "In Healey *v.* Mutual Acci. Asso., 133 Ill. 556, 9 L. R. A. 371, 23 Am. St. Rep. 637, 25 N. E. 52, the deceased did not know that what he drank was a poison; he took and drank it accidentally. In Jenkins *v.* Hawkeye Commercial Men's Asso., 147 Iowa 113, 30 L. R. A. (N. S.) 1181, 124 N. W. 199, the swallowing of the fishbone that caused the death of the insured was a mere accident. In Maryland Casualty Co. *v.* Hudgins, 97 Tex. 124, 64 L. R. A. 349, 104 Am. St. Rep. 857, 76 S. W. 745, 1 Ann. Cas. 252, the oysters which caused the death were eaten by the deceased in ignorance of their unsound condition. In Paul *v.* Travelers' Ins. Co., 112 N. Y. 472, 3 L. R. A. 443, 8 Am. St. Rep. 758, 20 N. E. 347, the deceased had no intention of inhaling the gas which caused his death. None of these decisions is inconsistent with the view which we take of the case at bar.

"In Delaney *v.* Modern Acci. Club, 121 Iowa 528, 63 L. R. A. 603, 97 N. W. 91, the defendant was held because it was the external physical injury, and not the death as distinguished from the injury, which was accidental. In Rodey *v.* Travelers' Ins. Co., 3 N. M. 543, 9 Pac. 348; Preferred Acci. Ins. Co. *v.* Patterson, 213 Fed. 595; and American Acci. Co. *v.* Reigart, 94 Ky. 547, 21 L. R. A. 651, 42 Am. St. Rep. 374, 23 S. W. 191, there was evidence that the original injury was accidental. That was the finding made in Bohaker *v.* Travelers' Ins. Co., 215 Mass. 32, 46 L. R. A. (N. S.) 543, 102 N. E. 342, and this court decided that the evidence justified the finding."

The court concluded as follows:

"We cannot find that there was any 'external, violent and accidental means' producing the injury which caused the death other than this inhalation by the deceased of the nasal douche which he took, not accidentally in any sense of that word, but purposely, with full knowledge of its character, and in the very way in which he intended to take it."

The Hutton Case in Illinois, the Johnson Case in Ohio, the Carnes Case in Iowa (cited with approval in the Murray Case in Virginia) and the Scotch Case of Clidero are all well considered, and the opinions show exhaustive study.

Appended hereto is a list of typical cases by States, within which are included those cases heretofore and hereafter mentioned and a number not in point but included for purposes of distinguishing them. The list is not completely exhaustive. The cases are classified as follows:

A. Cases in accord with the principle, holding insurer not liable.

B. Cases in accord with the principle, holding insurer liable.

C. Cases contrary to the principle.

Opposite each case is an indication of the facts involved.

It may be safely said that the great weight of authority favors the rule laid down in the Federal and State cases, the opinions of which have been quoted from above, but there are two special classes of cases, the decisions on which deserve special

treatment because of the serious conflict of authority, real or apparent.

Poison Cases.

The true rule in this class of cases is as stated in the Carnes Case as follows:

> "He must, then, have either taken more morphine than he intended, or taken what he intended and misjudged its effects. If he took more than he intended—that is, intended to take one or two quarter grains, and, by mistake or inadvertence, took much more—this was accidental, and, if death was so caused, the beneficiary is entitled to recover. But suppose he took just the amount of morphine he intended, and misjudged the effect it would produce; may death so occasioned be said to result from an accidental cause?"

The court then says:

> "It will be observed that this policy insures against death from an accidental cause and not an accidental death. It is possible that under the definitions referred to the death of Carnes was accidental, but if he took the amount of morphine intended, and a result not anticipated occurred, then the cause of his death was not accidental, for he intended to do the very thing he did. The morphine was, under the circumstances, taken by design. The result only was unforeseen—unintended."

This case was approved in the Murray Case in Virginia and it is in accord generally with the decided cases, but in the Dezell and Beile Cases in Missouri, the Pixley Case, decided by an intermediate court in Illinois, the Hodgson Case, decided by a court of original jurisdiction in New York, the principle of the Carnes Case was disregarded.

Sunstroke and Freezing.

There is a group of sunstroke cases, including the Bryant Case in Texas, the Higgins Case in Illinois, the Elsey Case in Indiana, the Pack Case in Kentucky, the Johnson Case in Kansas, the Clark Case in Oklahoma and the Gallagher Case in New York, which seem at first glance to be at variance with

the general rule and to hold sunstroke an injury by accidental means, despite the fact of voluntary and deliberate exposure of his person by the insured. A study of this group of cases will develop two facts. First, the Bryant Case is the basis of the others; second, the correctly decided Dozier and Sinclair Cases are approved by inference under the insurance policies there involved. The contrary decisions in this group are all expressly based upon the peculiar language of a special clause in the policies by virtue of which sunstroke, freezing and hydrophobia were classified together as a group of risks which the companies specifically assumed when due to external, violent and accidental means. The courts (construing the policies against the companies which had drafted them) were unwilling to rule that the protection thus afforded and for which the insured paid a larger premium than would have otherwise been paid was limited to cases where the exposure to sun or cold was suffered on account of unavoidable circumstances, such as shipwreck or other physical incapacity to avoid the exposure, upon the theory that such a limited coverage was substantially no coverage in these times and in the civilized communities in which these polices were sold.

This ruling seems a just one. But, unnecessarily (since the foregoing was a sufficient ground of exception from the general rule) some of these courts ignored the nature of sunstroke as a disease [2] and likened it to a lightning stroke, as an accident and an injury effected by accidental means. In none of them, could the decision be based upon decided cases on this last theory, except the cases within this particular group, nearly all of which have been decided within the past five years.

Against this group stands alone the Selmanick Case, decided by an intermediate court in Pennsylvania; so where policies contain a clause of the above nature, it seems probable that under ordinary circumstances the insurer will be held (and perhaps ought to be held) liable in sunstroke cases. And since freezing is a physical condition brought about by cold too extreme for normal functioning of the body of a particular person, considering his movements, his circulation and his general

[2] See the Dozier case and authorities cited therein.

physical condition, just as sunstroke is a physical condition brought about by heat too extreme for normal functioning of the brain of the particular person, considering his movements and physical condition, it seems likely that freezing cases will be decided similarly.

But, in the absence of the special clause grouping freezing and sunstroke as risks expressly covered by the policy, under certain conditions, the same should not be held to have been caused by accidental means when they result from voluntary exposure. In the Sinclair Case, it was said (and the statement is approved in the Dozier Case):

> "We cannot think disease produced by the action of a known cause can be considered as accidental. Thus disease or death engendered by exposure to heat, cold, damp, the vicissitudes of climate, or atmospheric influences, cannot, we think, properly be said to be accidental; unless, at all events, the exposure is itself brought about by circumstances which may give it the character of accident. Thus, by way of illustration, if, from the effects of ordinary exposure to the elements, such as is common in the course of navigation, a mariner should catch cold and die, such death would not be accidental; although if, being obliged by shipwreck or other disasters to quit the ship and take to the sea in an open boat, he remained exposed to wet and cold for some time, and death ensued therefrom, the death might properly be held to be the result of accident. It is true that, in one sense, disease or death through the direct effect of a known natural cause, such as we have referred to, may be said to be accidental, inasmuch as it is uncertain beforehand whether the effect will ensue in any particular case. Exposed to the same malaria or infection, one man escapes, another succumbs. Yet diseases thus arising have always been considered, not as accidental, but as proceeding from natural causes.
>
> "In the present instance, the disease called 'sunstroke', although the name would at first seem to imply something of external violence, is, so far as we are informed, an inflammatory disease of the brain, brought on by exposure to the too intense heat of the sun's rays. It is a disease to which persons exposing themselves to the sun in a tropical climate are more or less liable, just as persons exposed to the other natural causes to which we have referred are

liable to disastrous consequences therefrom. The deceased, in the discharge of his ordinary duties about his ship, became thus affected, and so died."

There is a Canadian case in the Appendix hereto, applying the above distinction in a case of death by freezing.

APPENDIX.

A. CASES IN ACCORD WITH THE PRINCIPLE, HOLDING THE INSURER NOT LIABLE.

Prudential Casualty Co. *v.* Curry, 10 Ala. App. 642, 65 So. 852, plaintiff assaulted another with gun, was shot and killed.

Southard *v.* Railway Assurance, 34 Conn. 574, running, rupture.

Sinclair *v.* Company, 3 El. & El. 478, sunstroke.

Dozier *v.* Fidelity and Casualty Co., 46 Fed. 446, sunstroke.

Fidelity and Casualty Co. *v.* Stacy, 143 Fed. 271, 5 L. R. A. (N. S.) 657, plaintiff assaulted another, hand injured, infected, death.

Maryland Casualty *v.* Spitz, 246 Fed. 817, scratched a sore place, erysipelas.

Shanberg *v.* Fidelity and Casualty Co., 158 Fed. 1, 19 L. R. A. (N. S.) 1206, voluntary exertion, heart rupture.

Taliaferro *v.* Travelers' Protective Ass'n, 80 Fed. 368, plaintiff assaulted another with pistol, was shot and killed.

Cobb *v.* Preferred, etc., Ass'n., 98 Ga. 818, 22 S. E. 976, voluntary exertion causing disability.

Johnson *v.* Aetna Life Ins. Co. (Ga.), 101 S. E. 134, changing tire, ruptured blood vessel, death.

Hutton *v.* Company, 267 Ill. 267, 108 N. E. 296, L. R. A. 1919E 127, plaintiff assaulted another, leg broken.

Robinson *v.* U. S. Health & Acc. Ins. Co., 192 Ill. App. 475, lifting, ruptured heart.

Schmid *v.* Indiana, etc., Ass'n, 42 Ind. App. 483, 85 N. E. 1032, carrying suit case, no fall, heart failure.

Binder *v.* National Ass'n., 127 Iowa 25, 102 N. W. 190, fall and paralysis.

Carnes *v.* Iowa Ass'n., 106 Iowa 281, 76 N. W. 683, 68 Am. St. Rep. 306, morphine, death.

Feder *v.* Iowa Ass'n., 107 Iowa 538, 43 L. R. A. 693, closing shutter, ruptured blood vessel.

Lehman *v.* Great Western, etc., Ass'n, 155 Iowa 737, 133 N. W. 752, 42 L. R. A. (N. S.) 562, bowling, no fall or unusual strain.

Smith *v.* Travelers Ins. Co., 219 Mass. 147, 106 N. E. 607, L. R. A. 1915B 872, nasal douche, internal injury.

Streeter *v.* Western Ins. Co., 65 Mich. 199, 8 Am. St. Rep. 882, injury, insanity, suicide.

Appel *v.* Aetna Life Ins. Co., 83 N. Y. Supp. 238, riding bicycle, no fall or strain, appendix inflamed, death.

Niskern *v.* United Brotherhood, etc., 87 N. Y. Supp. 640, rupture of blood vessel.

New Amsterdam Casualty Co. *v.* Johnson, 91 Ohio St. 155, L. R. A. 1916B 1018, cold bath when overheated, heart dilated.

Selmanick *v.* Company, 56 Pa. Sup. Ct. 392, sunstroke.

Clidero *v.* Insurance Co., 29 Scot. L. R. 303.

Pledger *v.* Business Ass'n. (Tex.), 197 S. W. 889, lifting, ruptured heart.

General Accident, etc., Corp. *v.* Murray, 120 Va. 115, foot rubbed by new shoe, erysipelas.

B. CASES IN ACCORD WITH THE PRINCIPLE, BUT HOLDING THE INSURER LIABLE.

Northwest *v.* Hudson, 10 Manitoba Law Rep. 537, breakdown of conveyance, quick change to severe weather, freezing and death.

Isitt *v.* Railway Assurance, L. R. 22 Q. B. Div. 504, accidental fall, (proximate cause), pneumonia, death.

Fidelity and Casualty Co. *v.* Lowenstein, 97 Fed. 17, asphyxiation by coal gas while asleep.

Insurance Co. *v.* Patterson, 213 Fed. 595, cranking auto, slipped and fell.

Business Men's Ass'n. *v.* Schiefelbusch, 262 Fed. 354, bald-headed man rubbing perspiration from head with soiled towel, unintentional abrasion, infection, death.

U. S. Mutual *v.* Barry, 23 Fed. 712, 131 U. S. 100, jump from platform, internal injuries, duodenitis. Not clearly in accord with principle.

Atlanta Ass'n. *v.* Alexander, 104 Ga. 709, 30 S. E. 939, 42 L. R. A. 188, striking with sledge, slanting blow, rupture, death.

Columbian Nat. Life Ins. Co. *v.* Miller, 140 Ga. 346, 78 S. E. 1079, illuminating gas, accidentally turned on, asphyxiation.

Fulton *v.* Metropolitan, 19 Ga. App. 127, 91 S. E. 228, strain, pulling boat from mud.

Healey *v.* Mutual, etc., Ass'n., 133 Ill. 556, 9 L. R. A. 371, drank poison by mistake.

Higgins *v.* Casualty Co., 281 Ill. 431, 118 N. E. 11, sunstroke.

Elsey *v.* Fidelity and Casualty Co. (Ind.), 120 N. E. 42, sunstroke.

Northwestern, etc., Co., *v.* Hazelett, 105 Ind. 212, 55 Am. Rep. 192, not an "accident" but a "life" case.

Clark *v.* Iowa Ass'n., 156 Iowa 201, 135 N. W. 1114, 42 L. R. A. (N. S.) 631, drowning.

Delaney *v.* Modern Accident Club, 121 Iowa 528, 63 L. R. A. 603, accidentally cut finger, blood poisoning.

Jenkins *v.* Hawkeye, etc., Ass'n., 147 Iowa 113, 124 N. W. 199, 30 L. R. A. (N. S.) 1181, accidentally swallowed fishbone.

Lickleider *v.* Iowa Ass'n., 184 Iowa 423, 168 N. W. 884, 3 A. L. R. 1295, removing tire, accidental fall back, ruptured artery.

Rowe *v.* United Travelers (Iowa), 172 N. W. 454, 4 A. L. R. 1235, auto turned over.

Continental Casualty Co. *v.* Johnson, 74 Kan. 129, 85 Pac. 545, 6 L. R. A. (N. S.) 609, sunstroke.

American Accident Co. *v.* Reigart, 94 Ky. 547, 21 L. R. A. 651, eating beefsteak, passed into windpipe, choked, death.

General Accident, etc., Corp. *v.* Meredith, 141 Ky. 92, 132 S. W. 191, accidental step down from pavement, jolt, internal injury, death.

Pack *v.* Company, 170 Ky. 47, 185 S. W. 496, L. R. A. 1916E 952, sunstroke.

McGlinchey *v.* Fidelity and Casualty Co., 80 Me. 251, 6 Am. St. Rep. 190, runaway horse, shock and fright, death.

Freeman *v.* Mercantile, etc., Ass'n., 156 Mass. 351, 17 L. R. A. 753, accidental fall, (proximate cause), peritonitis, death.

Johnson *v.* Fidelity and Casualty Co., 184 Mich. 406, 151 N. W. 593, L. R. A. 1916A 475, tainted food, eaten by mistake, ptomaine poisoning.

Gardner *v.* United Surety Co., 110 Minn. 291, 125 N. W. 264, 26 L. R. A. (N. S.) 1004, kicked by horse, proximate cause of death which occurred after anti-tetanus injection.

Fidelity and Casualty Co. *v.* Johnson, 72 Miss. 333, 30 L. R. A. 206, hanged by mob.

Pervanger *v.* Casualty Co., 85 Miss. 31, 37 So. 461, lifting substance, it fell striking and injuring insured.

Lovelace *v.* Travelers, 126 Mo. 104, 30 L. R. A. 209, plaintiff attempted to eject drunken man from hotel, using only his hands, other shot and killed him.

Gale *v.* Mutual Aid, 21 N. Y. Supp. 893, question whether injury (not means) accidental.

Gallagher *v.* Company, 148 N. Y. Supp. 1016, sunstroke.

Paul *v.* Travelers, 112 N. Y. 472, 3 L. R. A. 443, accidentally left gas escaping, asphyxiated while asleep.

Penfold *v.* Universal, 85 N. Y. 317, 39 Am. Rep. 660, overdose taken by mistake.

Continental Casualty Co. *v.* Clark (Okla), 173 Pac. 453, sunstroke.

North American *v.* Burroughs, 69 Pa. St. 43, 8 Am. Rep. 212, question whether injury (not means) accidental.

Bryant *v.* Continental Casualty Co. (Tex.), 182 S. W. 673, L. R. A. 1916E 945, sunstroke.

Kennedy *v.* Aetna Life Ins. Co., 31 Tex. Civ. App. 509, 72 S. W. 602, took poison, thinking it different medicine.

Maryland Casualty *v.* Hudgins, 97 Tex. 124, 64 L. R. A. 349, ate oysters, not knowing them unsound.

Schneider *v.* Provident Life Ins. Co., 24 Wis. 28, 1 Am. Rep. 157, question whether death "an accident".

Sheanon *v.* Pacific Mutual, 77 Wis. 618, 46 N. W. 799, 20 Am. St. Rep. 151, 9 L. R. A. 685, bystander shot in fight.

C. CASES CONTRARY TO THE PRINCIPLE.

Pixley *v.* Illinois, etc., Ass'n., 195 Ill. App. 135, overdose of morphine. Not clearly contrary to principle.

Beile *v.* Travelers, 155 Mo. App. 629, 135 S. W. 497, overdose of chloroform.

Dezell *v.* Fidelity and Casualty Co., 176 Mo. 253, 75 S. W. 1102, overdose of morphine.

Hodgson *v.* Preferred Acc. Ins. Co., 165 N. Y. Supp. 293, 169 N. Y. Supp. 28, overdose of morphine.

Horsfall *v.* Pacific Mutual, 32 Wash. 132, 63 L. R. A. 425, lifting iron bar, heart dilated, died. Counsel apparently relied on other defenses.

Andrew D. Christian.

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